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7
8 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. OT 2008-101

11 **SHANA ELYSE NOVEGROD**
12 **3291 Sawtelle Blvd, 207**
13 **Los Angeles, CA 90066**
Occupational Therapy License No. OT 4624

A C C U S A T I O N

14 Respondent.

15
16
17 Complainant alleges:

18 **PARTIES**

19 1. Heather Martin (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the California Board of Occupational Therapy, Department of Consumer
21 Affairs.

22 2. On or about December 14, 2002, the California Board of Occupational Therapy
23 issued Occupational Therapy License Number OT 4624 to Shana Elyse Novegrod (Respondent).
24 The Occupational Therapy License was in full force and effect at all times relevant to the charges
25 brought herein and will expire on January 31, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the California Board of Occupational Therapy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Cod) unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2570.185, subdivision (a) of the Code states:

“(a) An occupational therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record.”

5. Section 2570.26, subdivision (a) of the Code states:

“(a) The board may, after a hearing, deny, suspend, revoke, or place on probation a license, inactive license, or limited permit.”

6. Section 2570.27 of the Code states:

“(a) The board may discipline a licensee by any or a combination of the following methods:

(1) Placing the license on probation with terms and conditions.

(2) Suspending the license and the right to practice occupational therapy for a period not to exceed one year.

(3) Revoking the license.

(4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.

(5) Taking other action as the board, in its discretion, deems proper.

(b) The board may issue an initial license on probation, with specific terms and conditions, to any applicant who has violated any provision of this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure.”

7. Section 2570.28 of the Code states, in pertinent part:

“The board may deny or discipline a licensee for any of the following:

(a) Unprofessional conduct, including, but not limited to, the following:

...

1 (2) Repeated similar negligent acts in carrying out usual occupational therapy
2 functions.

3 ...
4 (c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting
5 the violation of, or conspiring to violate, any provision or term of this chapter or any regulation
6 adopted pursuant to this chapter."

7 8. Section 2570.30 of the Code states:

8 "The board shall retain jurisdiction to proceed with any investigation, action or disciplinary
9 proceeding against a license, or to render a decision suspending or revoking a license, regardless
10 of the expiration, lapse, or suspension of the license by operation of law, by order or decision of
11 the board or a court of law, or by the voluntary surrender of a license by the licensee."

12 REGULATORY PROVISIONS

13 9. California Code of Regulations, title 16, section 4100 subdivision (g) states:

14 "'Negligence' is a departure from the standard of care, which under similar circumstances,
15 would have been ordinarily exercised by a competent licensed professional."

16 10. California Code of Regulations, title 16, section 4170 states, in pertinent part:

17 "A violation of any ethical standard of practice constitutes grounds for disciplinary action.
18 Every person who holds a license, certificate or limited permit issued by the board shall comply
19 with the following ethical standards of practice:

20 ...

21 (e) Occupational therapy practitioners shall comply with the Occupational Therapy Practice
22 Act, the California Code of Regulations, and all other related local, state, and federal laws.

23 (f) Occupational therapy practitioners shall provide accurate information about
24 occupational therapy services..."

25 COST RECOVERY

26 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of
28

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Repeated Similar Negligence Acts)**

5 12. Respondent is subject to disciplinary action under Code section 2570.28, subdivision
6 (a), subsection (2) for committing repeated similar negligent acts as defined by California Code of
7 Regulations, Title 16, section 4100, subdivision (g) in that respondent repeatedly departed from
8 the standard of care, which under similar circumstances, would have been ordinarily exercised by
9 a competent licensed professional. The Respondent's conduct is described as follows:

10 13. On or about June of 2002 to present, Respondent has been employed as a school
11 Occupational Therapist for the Los Angeles Unified School District (LAUSD).

12 14. As an Occupation Therapist for the LAUSD, Respondent is responsible for
13 assessment, development, and implementation of individualized education plans for grade school
14 children to address gross and fine motor skills, sensory issues, self care, and prevocational life
15 skills.

16 15. LAUSD uses a computerized case management system entitled Welligent that stores
17 and tracks treatment plans, case notes, and therapy treatment notes for each student-patient.

18 16. As an Occupation Therapist for LAUSD, Respondent is required to maintain her
19 treatment plans, case notes, and therapy treatment notes in the Welligent system.

20 17. Respondent failed to document treatment for her student-patients in the Welligent
21 system as follows:

22 a. There are no records of treatment for patient Z.B.¹ for visits on 11/13/2009,
23 12/4/2009, 12/11/2009, or 12/18/2009.

24 b. There are no records of treatment for patient F.C. for visits on 12/17/2009,
25 1/15/2010, or 2/5/2010.

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27
28 ¹ Initials are used to protect the confidentiality of the students.

1 c. There are no records of treatment for patient A.G. for visits on 11/6/2009,
2 11/13/2009, 11/20/2009, 12/4/2009, 12/11/2009, 12/18/2009, 1/15/2010, 1/22/2010, 1/29/2010,
3 2/5/2010, 2/12/2010, 2/19/2010, or 2/22/2010.

4 d. There are no records of treatment for patient Z.G. for visits on 2/5/2010,
5 2/12/2010, or 2/19/2010.

6 e. There are no records of treatment for patient S.G. for visits on 11/5/2009,
7 11/12/2009, 11/19/2009, 12/3/2009, 12/10/2009, 12/17/2009, 1/14/2010, 1/21/2010, 1/28/2010,
8 2/4/2010, 2/11/2010, or 2/18/2010.

9 f. There are no records of treatment for patient R.G. for visits on 11/19/2009,
10 12/3/2009, 12/17/2009, 1/14/2010, or 1/21/2010.

11 g. There are no records of treatment for patient A.M. for visits on 11/19/2009,
12 12/3/2009, 12/10/2009, 12/17/2009, 1/14/2010, 1/21/2010, 1/28/2010, 2/4/2010, 2/11/2010, or
13 2/18/2010.

14 h. There are no records of treatment for patient M.O. for visits on 12/4/2009,
15 1/5/2010, or 2/5/2010.

16 i. There are no records of treatment for patient J.R. for visits on 11/6/2009,
17 11/13/2009, 11/20/2009, 12/4/2009, 12/11/2009, 12/18/2009, 1/15/2010, or 1/22/2010.

18 j. There are no records of treatment for patient A.R. for visits on 11/5/2009,
19 11/12/2009, 11/19/2009, 12/3/2009, 12/10/2009, 12/17/2009, 1/14/2010, 1/21/2010, 1/28/2010,
20 2/4/2010, 2/11/2010, 2/18/2010, or 2/25/2010.

21 k. There are no records of treatment for patient N.S. for visits on 11/5/2009,
22 11/12/2009, 11/19/2009, 11/3/2009, 12/10/2009, 12/17/2009, 1/14/2010, 1/21/2010, 1/28/2010,
23 2/4/2010, 2/11/2010, 2/18/2010, or 2/15/2010.

24 l. There are no records of treatment for patient J.S. for visits on 11/6/2009,
25 11/13/2009, 11/20/2009, 12/4/2009, or 12/11/2009.

26 m. There are no records of treatment for patient S.T. for visits on 11/5/2009,
27 11/12/2009, 12/3/2009, 12/10/2009, 12/17/2009, 1/14/2010, 1/21/2010, 1/28/2010, 2/4/2010,
28 2/11/2010, 2/18/2010, or 2/25/2010.

1 n. There are no records of treatment for patient M.U. for visits since November 23,
2 2009.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failing to Make Entries in Patient Records)**

5 18. Respondent is subject to disciplinary action under section Code section 2570.185,
6 2570.28, subdivision (c), and California Code of Regulations Title 16, section 4170, subdivisions
7 (e) and (f) for failing to document her evaluation, goals, treatment plan, and summary of
8 treatment in patient records. The circumstances are as more particularly described in paragraph
9 17, subdivisions (a) through (n), inclusive, above, and herein incorporated by reference.

10 **PRAYER**


11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the California Board of Occupational Therapy issue a decision:

13 1. Revoking or suspending Occupational Therapy License Number OT 4624, issued to
14 Shana Elyse Novegrod;

15 2. Ordering Shana Elyse Novegrod to pay the California Board of Occupational Therapy
16 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3;

18 3. Taking such other and further action as deemed necessary and proper.

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20
21 DATED: 1 November 2010


HEATHER MARTIN
Executive Officer
California Board of Occupational Therapy
Department of Consumer Affairs
State of California
Complainant

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